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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,392	03/19/2001	Kenneth H. Crain	108292.00006	3369

7590 05/17/2005

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EXAMINER	
NGUYEN, CAO H	

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/812,392	CRAIN ET AL.	
	Examiner	Art Unit	
	Cao (Kevin) Nguyen	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 March 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/20/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-20 are provisionally rejected under the judicially created doctrine of double patenting over claim 1-21 of copending Application No. 09/812,392. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: a method of reconstructing visual stimuli observable through a browser-based interface, comprising: receiving a selection of content for reconstruction; retrieving data related to the content; calculating an amount of content to display based on the data; and reconstructing the display, wherein the reconstructed display represents visual stimuli as it was previously displayed.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ridgley (US Patent No. 6,583,800).

Regarding claim 1, Ridgley discloses a method a system that enables the reconstruction of user- viewable visual stimuli observed through a browser-based interface comprising a processing platform for executing code capable of reconstructing a user-viewable stimuli, wherein the reconstructed user-viewable stimuli represents visual stimuli as it was previously displayed [..selection of a content sub-area by considering the sequence of user as an element of the presentation protocol; see col. 6, lines 1-67 and col. 7, lines 1-64]; and a storage platform for storing at least one user-viewed visual stimuli, the storage platform coupled to the processing platform (see col. 12, lines 5-57).

Regarding claim 2, Ridgley discloses further comprising a user interaction device coupled to the processing platform (see col. 4, lines 9-60).

Regarding claim 3, Ridgley discloses wherein the processing platform executes code capable of reconstructing a user-viewable stimuli, by receiving a selection of content for reconstruction; retrieving data; calculating what to display; and reconstructing a display (see col. 5, lines 35-65 and col. 6, lines 1-64).

Regarding claim 4, Ridgley discloses further comprising a browser coupled to the processing platform (see col. 9, lines 25-67).

Regarding claim 5, Ridgley discloses further comprising a browser interface coupled to the server (see figures 12R-12T).

Regarding claim 6, Ridgley discloses further comprising a network coupled to the processing platform (see col. 5, lines 8-65).

Regarding claim 7, Ridgley discloses wherein the storage platform comprises a visual stimuli algorithm (see col. 5, lines 1-64).

Regarding claim 8, Ridgley discloses wherein the system is maintained in a Person Digital Assistant (PDA) (see col. 17, lines 15-57).

Regarding claim 9, Ridgley discloses wherein the network is the Internet (see figures 11A-11D).

Regarding claim 10, Ridgley discloses comprising a host computer coupled to the network, the host computer for communicating with the processing platform (see col. 12, lines 5-58).

Regarding claims 11-13, Ridgley discloses further comprising an eye tracking device coupled to the processing platform (see col. 18, lines 4-67).

Regarding claim 14, Ridgley discloses wherein the network is a wireless network (see figure 1-11A).

As claims 15-20 are analyzed as previously discussed with respect to claims 1-14 above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (571)272-4053. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571)272-4048. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cao (Kevin) Nguyen
Primary Examiner
Art Unit 2173

05/11/05